

**BEFORE THE
FEDERAL MARITIME COMMISSION**

DOCKET NO. 13-05

**AMENDMENTS TO REGULATIONS GOVERNING OCEAN TRANSPORTATION
INTERMEDIARY LICENSING AND FINANCIAL RESPONSIBILITY
REQUIREMENTS, AND GENERAL DUTIES**

COMMENTS OF CV INTERNATIONAL, INC.

The following comments are submitted by CV International, Inc. (CVI) a privately held ocean freight forwarder, NVOCC, customs broker, air freight forwarder and third party logistics provider. We are licensed by the Federal Maritime Commission, Lic. 3454 N/F, U.S. Customs and Border Protection, Lic. 2757, the Federal Motor Carrier Safety Administration, MC-721366-B, and IATA, 0119465. Our Company is based in Norfolk, VA, with fully operational branch offices located in Charlotte, NC and Atlanta, GA. We work with a vast network of agents, both domestic and overseas, in order to facilitate efficient and cost-effective international shipments for our customers.

As a member of the National Customs Broker and Forwarders Association of America (NCBFAA), we are familiar with the issues raised by the Federal Maritime Commission in the ANPRM. We are concerned that the some of proposed rules are overly burdensome and serve no practical purpose. In the sections below, we have outlined our oppositions and specific concerns:

- **License Renewal** – We are opposed to a requirement that OTIs reapply for licensing every two years and pay associated administrative fees. While we agree that the FMC should have current and accurate information about licensed companies, the collection of such information should not require a reapplication for licensure every two years. Existing regulations already require that forwarders and NVOCCs update their information when officers, branch offices or qualifying individuals change. If the Commission believes that some more formal process is appropriate, simply providing updated information in periodic reports would be sufficient. However, requiring actual license renewals will be a costly and burdensome process for both OTIs and the FMC.
- **Qualifying Individual** – We are opposed to shortening the deadline for filing an application for a replacement qualifying individual from thirty to fifteen days in the event of a death, retirement, or resignation of a qualifying individual. We consider our Qualifying Officers to be “key individuals” within our organization. Replacing key individuals within a business can hardly be expected to take place within a window of thirty days, let alone fifteen.

- **Revocation Procedures** – We have a number of concerns about proposed changes relating to revocation procedures for OTI licenses. One major concern is that the proposed regulations contemplate easing the procedures by which licenses can be suspended or revoked. Revocation or suspension of a license is a very harsh penalty and should be reserved for eliminating companies that are totally non-compliant, rather than just because they may have committed some error that contravenes a regulation where there has been no demonstrable harm to the public.
- **Publication of Claims** – We are opposed to rules that would require carriers and sureties to file with the FMC a list of any claims made that related in any way to the activities of a forwarder or NVOCC so that it may be made public on the FMC’s website. Publication of any and all allegations, regardless of merit, made against our Company could be very damaging to our reputation and business. The ANPRM proposes inclusion of a disclaimer that the FMC is not making any judgment about the allegations. Such a disclaimer would do little to mitigate damage and presumption of guilt. Furthermore, when our Company has valid claims against it, either it or its insurance companies pay those claims, so that there has never been an occasion when a claimant had been forced to move against our FMC bond. Accordingly, this required publication has little or no relevance to the commercial realities of how business is done.
- **Bond Requirements** – The proposed rules would increase bond requirements for forwarders and NVOCCs from \$50,000 to \$75,000 and from \$75,000 to \$100,000 respectively. Although the amount of the increase proposed for both forwarder and NVOCC bonds are not that substantial, we object to any increase since the FMC provided no cogent explanation as to why any increase was necessary. We have never had a claim made against our Company’s bond. There is no indication in the ANPRM that any claim has been made against a licensed forwarder’s bond. Most commercial shippers carry insurance against cargo loss and damage.
- **Priority System for Claims Against Bonds** – We are opposed to the establishment of a priority system for claims against bonds. There is no reason why shippers should have a priority over OTIs, since NVOs are also shippers in their relationship to the carriers. Similarly, if an OTI is a claimant, any monies that may be due from another OTI under the bond is money for which the claimant cannot be insured, unlike the situation with shippers, so it is unfair for the Commission to pick winners and losers.
- **Agency Issues** – We are opposed to rules that would require that all shipping documentation or advertising by one of our agents bear our name and license number. We employ a multitude of agents around the world, including truckers, warehouses, shipping lines, packing companies and other NVOCCs, to facilitate the international movement of goods by ocean transportation. Ensuring that all of our agents include our information on their documentation would be impracticable in consideration of the commercial realities of operating an OTI. Furthermore, shippers moving commercial cargo are almost always aware of the identity of the principal and the agent in any given transaction. Under the proposed rules, we may also be required to execute formal agency agreements with every third party we utilize to move our customers’ cargo. This would limit the variety of service options and cost savings we are able to present to our clients.

Finally, and most compellingly, we are liable to our customers as their principal for any actions of our agents under common law. Therefore, our customers remedy for any damages caused by our agents would be through our Company as a principal. In summary, the proposed rules related to agency relationships would be duplicative, overly burdensome, and could impact our ability to make decisions on who we employ as agents to satisfy the needs of our customers.

In summary, it is our position that the aforementioned proposed rules will only serve to increase the difficulty of operating as a small business in an industry that is already heavily regulated. They do not take into account the commercial realities of international shipping or the relationships between commercial shippers and OTIs. They do not serve the “benefit of U.S. exporters, importers, and the U.S. consumer”; they will only increase costs for all parties and diminish service options.

In closing, we would also take the opportunity to encourage the FMC to strongly consider suggestions that have been made to it by the NCBFAA to eliminate unnecessary regulatory burdens and facilitate the role of OTIs in our assisting importers and exporters in the movement of their cargoes. Specifically, we request the FMC consider pursuing the following initiatives:

1. Total elimination of OTI rate tariff publication, so as to avoid any procedural requirements;
2. The elimination of the need for NVOCCs to file NVOCC Service Agreements (“NSAs”) or publish their essential terms;
3. Requiring vessel operators to file their contingency plans with the Commission, which could be posted on the Commission’s website, so that the trade can be advised of those plans in the event there are severe weather or labor issues that could lead to significant service disruptions; and
4. The FMC could work with the FMCSA to establish a common bond for OTIs and motor carrier property brokers, which would reduce the financial burden on intermediaries.

Thank you for the opportunity to submit our comments and for your consideration of our objections in your deliberations.

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